

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JEWELLEAN MOORE, PLAINTIFF

VS.

CASE NO. 3:16CV-3362

CRESCENT MEDICAL CENTER, ET AL., DEF.

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
JUN - 7 2017
CLERK, U.S. DISTRICT COURT
By _____ Deputy _____

PLAINTIFF'S REQUEST FOR RELIEF FROM THE MAGISTRATE'S

ORDER FOR IN COURT HEARING OF JUNE 7TH

ALTERNATIVELY PERMISSION FOR INTERLOCUTORY APPEAL

TO THE HONORABLE JUDGE OF SAID COURT:

Comes Now the Plaintiff, Jewellean Moore, pursuant to Rule 60(b) FRCP, Section 1292, & 1651, 28 U.S.C. in that Plaintiff request this Court Hold the ad litem Hearing Order in abeyance until a Ruling is made regarding Plaintiff's Own Physician's Opinion submitted to this Court. Also, Plaintiff Would like to show the following:

1). Defendants Attorney, Monica Bailey, did not obtain any meeting of the Mind with Plaintiff as to The day of the Month of the Hearing. In that only the Month of June was agreed upon, Ms. Bailey, on Her own agreed the 7th was alright. Plaintiff was notified by Counsel of this date, without Plaintiff's input.

However, Plaintiff has a June 7th Doctor's Appointment, a follow-up on Her previous Knee Surgery, with Dr. Charles Barnes, of UAMS Medical Center @ 9:30 AM,(Phone # 501-614-2663) in Little Rock, AR, (*Attached*).

2). Plaintiff relies on Special Paratransit for the Disable for Transportation. This Service do not extend To Dallas, Texas. Also, Plaintiff is unable to use other Public Transportation, see attached, "Physician Verification of Disability, by DR. J. Deepa).

due to Plaintiff's Medical disabilities, the Court should make accommodations, pursuant to the Americans Disability Act, 12101, 42 U.S.C., and Sec. 504 Rehabilitation Act, 29 U.S.C. 701.

3). There exist credible Expert Evidence Presented from Plaintiff's Physician to substantiate Her Incompetency, which are ignored by the Magistrate Judge. This evidence would eviscerate the need For Plaintiff traveling to Dallas at this juncture, and without accommodations. Plaintiff's Doctor's Opinion has not been refuted nor is there a controversy. There is no good cause shown that the Judge should divorce itself from Plaintiff's Physicians Opinion in this matter.

"Relevant evidence is defined as that which has any tendency to make the existence of any fact That is of consequence to the determination of the action probable or less probable than it would Be without the evidence", Beech Aircraft Corp., V. Rainey, 488 U.S. 153, 163(1988).

Rule 35(a) FRCP requires Physical or Mental examination when a controversy, and good cause shown For the exam. In the case sub judice, the Magistrate seek to make His own determination of Plaintiff's Mental Competence with a In Person Appearance by Plaintiff, despite the Opinion of Plaintiff's treating Physician, whom opinion should be accorded great weight, see; Leggett V. Chater, 67 F.#d. 558, 566-(5th Cir. 1995); and Greenspar V. Shala, 38 F.3d 232, 237(5th Cir. 1994), Ceert. Denied, 514 U. S. 1120, (1995).

Furthermore, Rule 702, FRE is further proof Plaintiff's Physician's verification is sufficient. pursuant to Daubert V. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993).

(2)

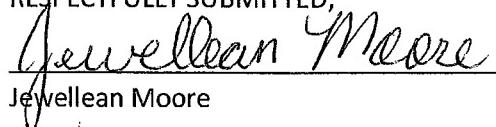
The Magistrate failed to give any weight to Plaintiff's Physician's Verification of Disability Statement submitted previously, and now attached herewith. Such statement is admissible Pursuant to Rule 803(4), FRE. This statement is dispositive of the competency issue, and Warrants the ex parte implementation of Rule 17(c), or appointment of Guardian ad litem, "prochain ami". Judge Lynn's Order indicates the hearing as an "Evaluation of Plaintiff's Capacity, [sic]." Such an evaluation has already to a Medical degree of Certainty been established, Plaintiff is the Victim of Her infirmity at this juncture.

Plaintiff's Physician is specific "that Traveling for Plaintiff is hazardous, and Lacks Competency". Since Paintiff's own Physician is Familiar with Her Impairments, this statement is crucial to This Case, Newton V. Apfel, 209 F.3d. 448(5th Cir. 2000).

The Magistrate should protect an Unrepresented Plaintiff whom lacks competency prior To any Inter-State travel, as per Rule 17(c)(2) FRCP. Court Order (docket # 61), is burdensome, And discriminates against a Disable Senior, and Puts Her in imminent danger, and is contrary to Law.

WHEREFORE PREMISES CONSIDERED, Because of Plaintiff's Doctor's Appointment; Her Disabilities; Plaintiff is unable to Attend the June 7th Hearing. Plaintiff request The Court Vacate or Hold in Abeyance the Guardian ad litem Hearing until adjudication on Plaintiff's Doctor's statement; Alternatively Permission for Interlocutory Appeal on the Verifiable Doctor's statement.

RESPECTFULLY SUBMITTED,

 . Dated this 30th day of MAY, 2017.
Jewellean Moore

CERTIFICATE OF SERVICE:

I, Jewellean Moore, certify that a copy of the foregoing Relief from Order, is mailed to:

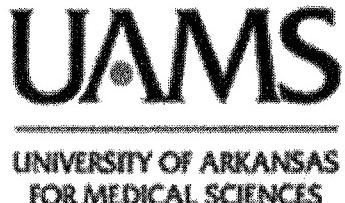
Monica Bailey, Attorney for Defendants this 1st day of June, 2017, by
Placing same in the United States Mail, Postage prepaid.

I swear the foregoing statements are true and correct.

Jewellean Moore
Jewellean Moore

6200 Colonel Glenn Rd #219
Little Rock, AR 72204

(4)



Ms. Jewellean Moore
6200 Colonel Glenn Rd
Apt 219
LITTLE ROCK, AR 72209

5/10/2017

Dear Jewellean Moore,

This is a reminder for your upcoming appointment with C. LOWRY BARNES, MD.

Date: 6/07/17

Time: 9:30 AM

Department: UAMS Ortho Clinic -- Orthopedics

Location: Uams Orthopedic Clinic - Shackleford Road

Visit Type: Follow Up Appointment

Instructions: Please arrive 15 minutes prior to appointment.

If for any reason you are unable to keep this appointment, please contact the office at 501-614-2663 to reschedule.

Sincerely,

Patient Service Specialist for C. LOWRY BARNES, MD



**Links Paratransit Service
Physician Verification of Disability
Form**

Date 4/11/2017

Patient Name Moose, Jewellean
DOB 03/03/1955

*****Please Note*****

**This form must be filled out in its entirety.
Incomplete forms will not be processed and
will be returned to the patient.**

The person named above is currently being treated or was formerly treated by me. The person has informed me of his/her intent to apply for Central Arkansas Transit Authority (CATA) Links service. The information provided in this form is intended to verify any medical/health conditions that prevent the applicant from using CATA's fixed route bus service.

Please Check One:

Physician

Licensed HealthCareProvider

Licensed Rehab/Social Worker

Orientation Mobility Specialist

Medical diagnosis and explanation of condition causing disability.

Arthritis, Obesity, Mentally disabled,
Type 2 DM, HN

Disability Status (Select One):

Patient will be temporarily disabled for _____ months.

Patient is considered permanently disabled.

Does the disability prevent the applicant from utilizing the CATA fixed route services (regular bus service)? If yes, please describe in detail.

Patient cannot read and with the mental
disability prevents her from getting to destination
safely.
With the arthritis, has difficulty in ambulation

Can the applicant walk or wheel 1/4 mile (3 blocks) without the assistance of another person?

Yes No

Can the applicant climb three 10-inch steps with assistance? Yes No

Can the applicant wait outside without support for 15 minutes? Yes No

Is the applicant on dialysis? Yes No

Does the applicant have a hearing impairment? Yes No

Is the applicant able to recognize a destination or landmark? Yes No

Is the applicant able to give addresses and phone numbers upon request? Yes No

Is the applicant able to deal with unexpected situations or unexpected changes in routine? Yes No

Is the applicant able to ask for, understand, and follow directions? Yes No

Is the applicant able to safely and effectively travel alone through crowded and/or complex facilities? Yes No

Does the applicant require a personal care attendant? Yes No

Based upon my professional knowledge of the applicant, I certify that the preceding information is true and correct.

DEEPA JAYAKRISHNAN

Name (Please Print)

501-686-6560

Office Phone Number

521 Pack Stephens Drive, Little Rock AR 72205

Office Street Address

City

State

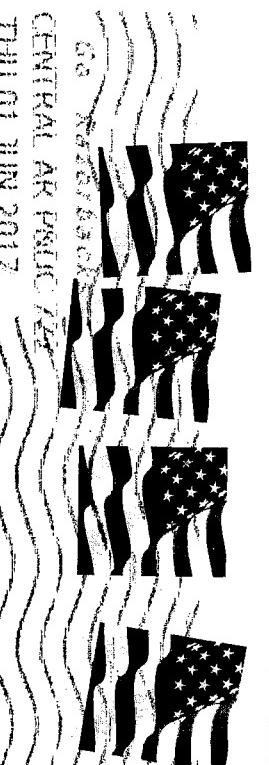
Zip Code

State License Number (Complete if Applicable - MUST BE CURRENT)

Signature:

Date: 4/11/2017

J. Moore
600 Colonel Glenn Rd. #219
Little Rock, AR 72204



UNITED STATES DISTRICT COURT
OFFICE OF THE CLERK
NORTHERN DISTRICT OF TEXAS
100 COMMERCE ST.
DALLAS, TX. 75242